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REMARKS

Claims 10, 11, and 15-26 are pending in this application. By this amendment, applicants have amended claims 10, 21 and 24. Applicants respectfully request entry of the amendments. Upon entry, claims 10, 11, and 15-26 will be pending in the subject application.

Rejection Under 35 U.S.C. 102(e)

Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 10, 11 and 15-26 under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 6,444,195 (Cole et al.). The examiner has maintained this rejection for reasons stated in the Office Action dated February 10, 2006.

In response, but without conceding the correctness of the examiner's position, applicants have amended the claims in an earnest effort to move this application to allowance, and without prejudice to their right to pursue the canceled subject matter in a later application. Applicants maintain that Cole does not anticipate the claimed invention under 35 U.S.C. 102, nor render the claimed invention obvious under 35 U.S.C. 103. Cole does not disclose nor suggest that avobenzone is destabilized as a sunscreen agent in the presence of higher levels of zinc oxide, as disclosed in the subject specification, and further that that destabilization can be corrected by the addition of an appropriate amount of phenylbenzimidazole sulfonic acid (PBSA). Cole's teaching is directed to an entirely different method of photostabilizing dibenzoylmethane derivatives by addition of diester or polyesters of a naphthalene dicarboxylic acid and a benzophenone derivative and subjecting it to high doses of sunlight or simulated sunlight. In order to clarify the invention, applicants have herein amended independent claims 10, 21 and 24 to specifically note that their

claimed composition does not contain the stabilizing agent required in Cole, namely the diester or polyester of naphthalene dicarboxylic acid. Cole only mentions zinc oxide and PBSA as examples of numerous additional "absorbing/reflecting agents" (See Cole, Col. 4, lines 38-52). Nowhere does Cole teach or suggest the problem and solution provided in the claimed invention. Cole does not teach that higher levels of zinc oxide can cause photoinstability of avobenzone. In fact, Cole teaches the opposite by encouraging the addition of zinc oxide as one of the numerous "absorbing/reflecting agents." Moreover, the Cole patent teaches against what the inventors here claim, because the stability enhancers in Cole are oil-soluble ingredients, whereas the PBSA of the present invention is a water-soluble ingredient. Because avobenzone is an oil-soluble ingredient, one of ordinary skill in the art would not have been led to use a water-soluble ingredient such as PBSA to achieve photostability of avobenzone in the presence of higher levels of zinc oxide.

Therefore, applicants maintain that the teachings of the cited reference does not anticipate the claimed invention, nor would it render the claimed invention obvious, and thus respectfully request that the rejection pursuant to 35 U.S.C. 102(e) be withdrawn.

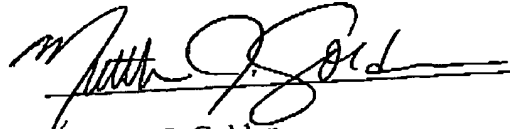
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CONCLUSION

In summary, applicants maintain that the subject application is now in condition for allowance and a Notice of Allowance is therefore respectfully requested. If the undersigned can be of assistance in advancing the application to allowance, please contact the undersigned at the number set forth below.

Respectfully submitted,


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